

Appl. No. 09/955,692

Amdt. dated December 31, 2003

Reply to Office action of October 9, 2003

REMARKS/ARGUMENTS

Claims 1, 3, 6 to 13, 17 and 18 are in the application.

Claims 6, 8, 10 to 12, and 18 have objections thereto. The Examiner's helpful suggestions have been entered by amendment. Accordingly, withdrawal of the objections is respectively requested.

Withdrawn Claims 19 and 20 have been canceled.

Claim 1 stands rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent 6,315,310 to Hurt (hereafter Hurt). Claims 1 and 3 stand rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent 2,584,219 to Murrell (hereafter Murrell). Claim 1 stands rejected under 35 U.S.C. 102 as being anticipated by United States Patent 4,404,704 to Raban (hereafter Raban). Claims 1 and 3 stand rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent 1,491,251 to Webb (hereafter Webb). Claim 1 stands rejected under 35 U.S.C. 102 as being anticipated by United States Patent 6,006,397 to Williams et al. (hereafter Williams). Claim 1 stands rejected under 35 U.S.C. 102 as being anticipated by United States Patent 3,788,662 to Rasmussen et al. (hereafter Rasmussen). Claim 1 stands rejected under 35 U.S.C. 102 as being anticipated by United States Patent 1,176,978 to Parker (hereafter Parker). Claim 1 stands rejected under 35 U.S.C. 102 as being anticipated by United States Patent 6,176,500 to Clement, Jr. et al. (hereafter Clement). Claim 1 stands rejected under 35 U.S.C. 102 as being anticipated by United States Patent 6,419,246 to Neal. (hereafter Neal).

Claim 7 stands rejected under 35 U.S.C. 103 as being obvious in view of Webb taken with United States Patent 3,399,903 to Bailey (hereafter Bailey). Claims 9 and 13 stand rejected under 35 U.S.C. 103 as being obvious in view of Webb taken with United States Patent 4,687,246 to Fennell (hereafter Fennell).

Claims 1, 3, 6 to 13, 17 and 18 stand rejected under 35 U.S.C. 112. Appropriate amendments have been made to overcome the rejections under 35 U.S.C. 112. The rejections under 35 U.S.C. 102 and 103 are respectfully traversed.

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GENERAL COMMENTS

Claims 5, 6, 8, 10, to 12 and 16 are indicated in Paragraphs 19 and 20 of the Office Action to be allowable. The Examiner's helpful suggestions have been incorporated into Claims 1, 3, 6 to 13, 17 and 18 in order to make these claims correspond to those indicated to be allowable and overcome the indicated objections.

An appropriate amendment is proposed to the abstract in order to comply with the Examiner's suggestion.

The cancellation of the non-elected claims requires no change in the inventorship of this application.

The reference to "skirt" has been corrected. The reference to drum and waste container has been clarified, because they relate to the same item. The dolly has the interior compartment.

RESPONSE TO 35 U.S.C 102 REJECTIONS

A blanket response to these rejections is offered. None of the prior art discussed in the office action provides a shelf cooperating with the mounted gripping device being located on the skirt. Furthermore, number prior are discussed in the office that provides a flexible closure adapted to side opening wherein the enclosures is secured to an edge thereof.

Accordingly, anticipation cannot exist in light of the decision rendered in In re Bond, 910 F.2d 831, 15 USPQ2D 1566 (Fed. Cir. 1990).

"For a prior art reference to anticipate in terms of 35 U.S.C. Section 102, every element of the claimed invention must be identically shown in a single reference. These elements must be arranged as in the claim under review,....."

Additionally, the Examiner's attention is directed to the decision in:

Structural Rubber Prod. Co., v. Park Rubber Co., 749 F.2d 707, 223 USPQ 1264 (Fed. Cir. 1984).

"Anticipation can only be established by a single prior art reference which discloses each and every element of the claimed invention. Anticipation is not shown even if the differences between the claims and the prior art references

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are 'insubstantial' and the missing elements could be supplied by the knowledge of one skilled in the art."

Accordingly, this rejection is respectfully traversed and withdrawal thereof is requested.

RESPONSE TO 35 U.S.C. 103 REJECTIONS

A blanket response to these rejections is also offered. None of the prior art discussed in the office action provides a shelf cooperating with the mounted gripping device being located on the skirt. Furthermore, number prior art is discussed in the office action that provides a flexible closure adapted to side opening wherein the enclosure is secured to an edge thereof.

Applicant's advantages are clearly disclosed, plainly discussed and heavily emphasized in applicant's claims and specification. These factors bring this application into the realm of U. S. v. Adams, 383 U.S. 39, 48-49; 148 USPQ 479, 482 (1966), which includes the following interpretation of the patent law:

"Novelty and nonobviousness, as well as utility, are separate tests of patentability. All must be satisfied in a valid patent.

"While patent claims limit invention, and specification cannot be utilized to expand patent monopoly, claims are construed in light of specification and both are read with a view to ascertaining the invention."

RESPONSE TO 35 U.S.C. 112 REJECTIONS

Claims 1, 3, 6 to 13, 17 and 18 stand rejected under 35 U.S.C. 112. Appropriate amendments to the claims and specification within the scope of Paragraph 7 of the Office Action have been made.

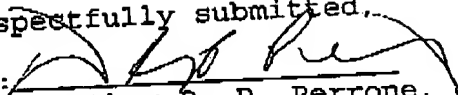
CONCLUSION

Accordingly, all rejections having been overcome by amendment or traversed by remarks, reconsideration and allowance of the instant application is respectfully requested. Applicant's attorney remains amenable to assisting the Examiner in the allowance of this application.

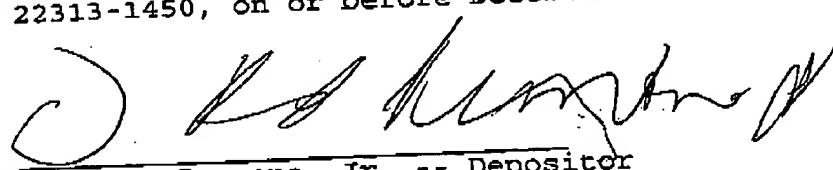
Applicant respectfully requests that a timely notice be

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issued in this case.

Respectfully submitted,

By: 
Mathew R. P. Perrone, Jr.
Reg. No. 22,951
Tel: (847) 658-5140

I hereby certify that this correspondence is being deposited
by facsimile to (703) 872-9306 addressed to: Mail Stop Non-Fee
Amendment, Commissioner for Patents, P.O. Box 1450,
Alexandria, VA 22313-1450, on or before December 31, 2003.


Mathew R. P. Perrone, Jr. -- Depositor

Mathew R. P. Perrone, Jr.
Attorney for Applicant
210 South Main Street
Algonquin, Illinois 60102
Telephone Number 847-658-5140
Registration Number 22,951
Date of faxing on or before December 31, 2003.